

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

L. DOUGLAS WILDER,
Plaintiff,

v.

Civil Action No. 3:22cv498

MICHAEL RAO, et al.,
Defendants.

FINAL ORDER

On August 18, 2022, the plaintiff filed a notice of voluntary dismissal without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). (ECF No. 13.) Pursuant to Rule 41, a plaintiff may voluntarily dismiss his case without a court order by filing “a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” Fed. R. Civ. P. 41(a)(1)(A)(i).

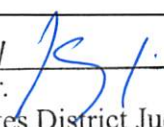
As of August 18, 2022, no defendant has filed an answer or a motion for summary judgment.¹ Accordingly, the Court acknowledges this voluntary dismissal and DIRECTS the Clerk to close this case.

It is so ORDERED.

Let the Clerk send a copy of this Order to all counsel of record and the pro se plaintiff.

¹ Defendant James Burke filed a motion for dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and (6) on August 5, 2022. (See ECF No. 5.) “When applying the plain language of Rule 12(b)(6) and Rule 41, a defendant’s filing of a motion to dismiss under Rule 12(b)(6) does not constitute a motion for summary judgment under Rule 41(a)(1)(A)(i) unless the defendant submits ‘matters outside the pleadings’ that are ‘not excluded by the court.’” *Novosel v. White*, No. 1:19cv365, 2019 WL 6682912, at *2 (citing Fed. R. Civ. P. 12(d); *see also Marex Titanic, Inc. v. The Wrecked & Abandoned Vessel*, 2 F.3d 544, 546 (4th Cir. 1993)). Burke’s motion does not include any exhibits or address any matters outside the pleadings.

Date: 16 August 2022
Richmond, VA

/s/ 
John A. Gibney, Jr.
Senior United States District Judge